

FILED
Clerk
District Court

SEP 12 2006

For The Northern Mariana Islands
By _____
(Deputy Clerk)

1 **LIZAMA_D.gar3**

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7 Attorney's for United States of America

8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN MARIANA ISLANDS

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 vs.

13 DIONICIO REYES LIZAMA, JR.,

14 Defendant,

15 LUEN FUNG ENTERPRISE,

16 Garnishee.
17

CRIMINAL CASE NO. 97-00023

**AMENDED WRIT OF CONTINUING
GARNISHMENT; INSTRUCTIONS
TO THE GARNISHEE**

18
19 **AMENDED WRIT OF CONTINUING GARNISHMENT**

20 GREETINGS TO: Luen Fung Enterprise
Attn: Payroll
21 P.O. Box 502725
22 Saipan, MP 96950

23 An application for an Amended Writ of Continuing Garnishment against the property of
24 Defendant-Judgment Debtor DIONICIO REYES LIZAMA, JR., Social Security Number
25 XXX-XX-5143, whose last known address is: P.O. Box XXXXXX, Saipan, MP 96950,
26 (hereinafter "Debtor"), has been filed with this Court. An amended judgment in a criminal case
27 was filed against the Debtor on June 23, 2004 and the amount due totals \$6,397.59, as of
28 September 11, 2006.

1 You are required by law to answer in writing, under oath, and within ten (10), after
2 receipt of this amended writ, the following information: (1) Whether or not you have in your
3 custody, control or possession, any property or money owned by the Debtor, including
4 nonexempt, disposable earnings; (2) A description of such property and the value of the
5 property; (3) A description of any previous garnishment to which such property is subject and
6 the extent to which any remaining property is not exempt; and (4) The amount of the debt you
7 anticipate owing to the Debtor in the future and whether the period for payment will be weekly
8 or another specified period.

9 **You are also required by law to withhold and retain any property or money of the**
10 **defendant you have in your custody, control or possession, including wages, salary or**
11 **commissions, or if you obtain custody, control or possession until you receive instructions**
12 **from the Court which will tell you what to do with the property and which will notify you**
13 **when this Amended Writ is no longer in effect. The United States requests that the sum of**
14 **25% of the defendant's monthly non-exempt disposable earnings be withheld from the**
15 **defendant's earnings.**

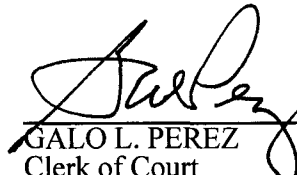
16 You must file the original written answer to this amended writ within ten (10) days of
17 your receipt of this amended writ with the United States District Clerk at: U.S. District Court
18 for the Northern Mariana Islands, 2nd Floor, Horiguchi Building, Garapan, P.O. Box 500687,
19 Saipan, MP 96950. YOU MUST ANSWER THE AMENDED WRIT EVEN IF YOU DO NOT
20 HAVE IN YOUR CUSTODY, CONTROL OR POSSESSION ANY PROPERTY OF THE
21 DEFENDANT. Additionally, you are required by law to serve a copy of this answer upon the
22 debtor at: P.O. Box XXXXXX, Saipan, MP 96950 and upon the United States Attorney at: U.S.
23 Attorney's Office, Attn.: Marivic P. David, Assistant U.S. Attorney, Sirena Plaza, Suite 500, 108
24 Hernan Cortez Avenue, Hagåtña, Guam 96910-5059.

25 Under the law, there is property which is exempt from this amended writ of Garnishment.
26 Property which is exempt and which is not subject to this order is listed on the attached Claim
27 for Exemption form, which the debtor must sign and return if he is claiming any exemptions.

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1 If you fail to answer this amended writ or withhold property in accordance with this
2 amended writ, the United States of America may petition the Court for an order requiring you to
3 appear before the Court to answer the amended writ and to so withhold the property before the
4 appearance date. If you fail to appear or do appear and fail to show good cause why you failed
5 to comply with this amended writ, the Court may enter a judgment against you for the value of
6 the Debtor's non-exempt interest in such property (including nonexempt disposable earnings).
7 The Court may also award a reasonable attorney's fee to the United States and against you if the
8 amended writ is not answered within the time specified herein and if the United States files a
9 petition requiring you to appear. **It is unlawful to pay or deliver to the Debtor any item**
10 **attached by this amended writ.**

11 DATED September 12, 2006, Saipan, MP.

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15 GALO L. PEREZ
16 Clerk of Court
17 District Court for the Northern
18 Mariana Islands
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1 TO: Luen Fung Enterprise
2 Attn: Payroll
3 P.O. Box 502725
4 Saipan, MP 96950

5 Please read the following instructions regarding the steps you must take to comply with
6 this Amended writ. For additional information, you may want to contact your attorney or the
7 attorney for the United States identified in Paragraph 6.

8 **INSTRUCTIONS TO THE GARNISHEE**
9

10 1. The name, last known address and Social Security Number of the person who is
11 the defendant in this action and whose property is subject to this Amended writ is:

12 DIONICIO REYES LIZAMA, JR.
13 P.O. Box XXXXXX
14 Saipan, MP 96950
15 SSN: XXX-XX-5143

16 2. This Amended writ has been issued at the request of the United States of America
17 to enforce the collection of a criminal judgment entered in favor of the United States against the
18 defendant. The amount of the judgment as of September 11, 2006 is \$6,397.59.

19 3. If you have in your custody, control or possession any property or money of the
20 defendant, including wages, salary or commissions, or if you obtain custody, control or
21 possession of such property while this Amended writ is in effect, you must immediately withhold
22 the property from the defendant and retain it in your possession until you receive instructions
23 from the Court which will tell you what to do with the property and which will notify you when
24 this Amended writ is no longer in effect. The United States requests that the sum of 25% of the
25 defendant's monthly non-exempt disposable earnings be withheld from the defendant's earnings.

26 //

27 //

28 //

1 4. You are required to answer this Amended writ within 10 days after the service of
2 the Amended writ upon you. YOU MUST ANSWER THE AMENDED WRIT EVEN IF YOU
3 DO NOT HAVE IN YOUR CUSTODY, CONTROL OR POSSESSION ANY PROPERTY OF
4 THE DEFENDANT. Your Answer must state, under oath, the following information:

- 5 a. whether you have custody, control or possession of money
6 or earnings of the defendant;
7 b. a description of the money or earnings and amount;
8 c. a description of any other garnishments, suggestions or
9 levies to which the earnings are subject and the extent to
10 which any remaining earnings are exempt from
11 garnishment, suggestion or levy;
12 d. the amount of any earnings you anticipate owing the
13 defendant in the future and the date on which payment will
14 be made; and
15 e. a description of any earnings you anticipate will come into
16 your custody, control or possession and the dates on which
17 such custody, control, or possession will occur.

18 5. After you complete the answer under oath, you must mail or deliver an answer
19 bearing the **original** signature plus one copy of the person preparing the answer to:

20 Clerk, United States District Court
21 for the Northern Mariana Islands
22 2nd Floor, Horiguchi Building , Garapan
23 P.O. Box 500687
24 Saipan, MP 96950

25 At the same time you mail or deliver the answer to the Clerk, you must also mail or
26 deliver copies of the answer to:

27 Marivic P. David
28 Assistant U.S. Attorney
 U.S. Attorney' Office
 Attn: Financial Litigation Unit
 Sirena Plaza, Suite 500
 108 Hernan Cortez Avenue
 Hagåtña, Guam 96910-5059

1 and

2 DIONICIO REYES LIZAMA, JR.
3 P.O. Box XXXXXX
Saipan, MP 96950

4 6. If you have any questions, you should contact your attorney. You may also
5 contact a representative of the United States at the following address and telephone number:

6 Marie Chenery
7 Financial Litigation Unit
Sirena Plaza, Suite 500
8 108 Hernan Cortez Avenue
Hagåtña, Guam 96910-5059
9 (671) 472-7332
FAX: (671) 472-7215

10 7. IF YOU FAIL TO ANSWER THIS AMENDED WRIT OR TO WITHHOLD
11 PROPERTY IN ACCORDANCE WITH THE AMENDED WRIT, THE UNITED STATES
12 MAY PETITION THE COURT FOR AN ORDER REQUIRING YOU TO APPEAR BEFORE
13 THE COURT TO ANSWER THIS AMENDED WRIT AND TO SO WITHHOLD PROPERTY
14 BEFORE THE APPEARANCE DATE.

15 IF YOU FAIL TO APPEAR, OR YOU APPEAR AND FAIL TO SHOW GOOD
16 CAUSE WHY YOU FAILED TO COMPLY WITH THIS AMENDED WRIT, THE COURT
17 WILL ENTER JUDGMENT AGAINST YOU FOR THE VALUE OF THE DEBTORS'S
18 NONEXEMPT INTEREST IN SUCH PROPERTY (INCLUDING NONEXEMPT
19 DISPOSABLE EARNINGS).

20 THE COURT MAY ALSO AWARD A REASONABLE ATTORNEY'S FEE TO
21 THE UNITED STATES AND AGAINST YOU IF THE AMENDED WRIT IS NOT
22 ANSWERED WITHIN THE TIME SPECIFIED HEREIN AND IF THE UNITED STATES
23 FILES A PETITION REQUIRING YOU TO APPEAR.

**CLAIM FOR EXEMPTION FORM
EXEMPTIONS UNDER FEDERAL LAW (18 U.S.C. § 3613)**

NOTE: 18 U.S.C. § 3613(a), the federal statute governing liens arising from criminal fines and restitution obligations, generally incorporates the exemptions available to individual taxpayers under the Internal Revenue Service Code.

I claim that the exemption(s) from enforcement which are checked below apply in this case:

- _____ 1. Wearing apparel and school books.--Such items of wearing apparel and such school books as are necessary for the debtor or for members of his family.
- _____ 2. Fuel, provisions, furniture, and personal effects.--So much of the fuel, provisions, furniture, and personal effects in the Debtor's household, and of the arms for personal use, livestock, and poultry of the debtor, as does not exceed **\$6,250** in value.
- _____ 3. Books and tools of a trade, business, or profession.--So many of the books, and tools necessary for the trade, business, or profession of the debtor as do not exceed in the aggregate **\$3,125** in value.
- _____ 4. Unemployment benefits.--Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State, or of the District of Columbia or of the Commonwealth of Puerto Rico.
- _____ 5. Undelivered mail.--Mail, addressed to any person, which has not been delivered to the addressee.
- _____ 6. Certain annuity and pension payments.--Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 1562), and annuities based on retired or retainer pay under Chapter 73 of Title 10 of United States Code.
- _____ 7. Workmen's Compensation.--Any amount payable with respect to compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.
- _____ 8. Judgments for support of minor children.--If the debtor is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to comply with such judgment.
- _____ 9. Certain service-connected disability payments.-- Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of Title 38, United States Code) disability benefit under--(A) subchapter II, III, IV, V, or VI of Chapter 11 of such Title 38 or (B) Chapter 13, 21, 23, 31, 32, 34, 35, 37, or 39 of such Title 38.
- _____ 10. Assistance under Job Training Partnership Act.
--Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) from funds appropriated pursuant to such Act.

11. Minimum exemptions for wages, salary and other income. The exemptions under 26 U.S.C. § 6334(a)(9) do not apply in criminal cases. The exceptions under the Consumer Credit Protection Act, 15 U.S.C. § 1673, for disposable earnings, automatically apply and do not need to be claimed. The aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed (1) 25 % of his disposable earnings for that week, or (2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage in effect at the time the earnings are payable, whichever is less.

MAJOR EXEMPTIONS UNDER THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS LAW

NOTE: If you select the exemptions available under commonwealth law, the law of the commonwealth where you have been domiciled for the greater part of the last 180 days governs your rights.

Relevant provisions of the Commonwealth of the Marianas Code Title 7, Div. 4 § 4210 allow the following exemptions:

9. **Debtor's Homestead**

<u>Address of Residence</u>	<u>Fair Market Value</u>	<u>Liens</u>	<u>Equity</u>
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____

10. **Personal Property** - All necessary household furniture, cooking and eating utensils, and all necessary wearing apparel, bedding and provision for household use sufficient for four months.

Property Claimed:	Fair Market Value
_____	\$ _____
_____	\$ _____

11. **Necessities for Trade or Occupation** - All tools, implements, utensils, two work animals, and equipment necessary to enable the person against whom the attachment or execution is issued to carry on his or her usual occupation.

Property Claimed:	Fair Market Value
_____	\$ _____
_____	\$ _____

- ____ 12. **Land and interest in Land** - All interests in land, but any interest owned solely by a judgment debtor, in his or her own right, may be ordered sold or transferred under order in aid of judgment if the Court making the order deems that justice so requires and finds as a fact that after the sale or transfer, the debtor will have sufficient land remaining to support himself or herself and those persons directly dependent on the debtor according to recognized local custom and the law of the Commonwealth. No person not of Northern Marianas descent may acquire any interest to such land, by sale, transfer, or otherwise, except as otherwise provided by law.

Amount Claimed: \$ _____

The statements made in this claim of entitlement to exemptions and the fair market value of the property designated are made and declared under penalty of perjury that they are true and correct.

Date

Signature of Defendant

Defendant's printed or typed name